

Circular No. 14/2018-Customs

(As amended vide Board's approval dated 25th July 2018)

F.No: 476/02/2016-LC

Government of India

Ministry of Finance

Department of Revenue

Central Board of Indirect Taxes & Customs

Room No. 49, North Block

New Delhi, dated 4th June 2018

To,

Principal Chief Commissioners of Customs / Chief Commissioners of Customs.

Principal Commissioners of Customs / Commissioner of Customs.

Subject: Procedure for e-commerce exports through Post and clarification on personal imports-reg.

Sir / Madam,

In order to facilitate exports and specifically give a fillip to the global outreach of India's exporters via e-commerce (more so to the small & medium enterprises), all IEC holders have been permitted to export goods through FPOs. Any IEC holder exporting goods through the FPO, will be eligible for zero rating of exports, by way of IGST refund or discharge of LUT. Those who do not wish to avail this facility or fall in the category of Exempted/Non-Taxable are also permitted to export under the same procedure. In order to cater to e-commerce exports through post, the Board has prescribed the declaration forms under "Exports by Post Regulations, 2018".

2. In absence of EDI system at FPOs, the Postal Bill of Export (PBE-I) for e-commerce exports and Postal Bill of Export (PBE-II) for other than e-commerce exports, will be processed in manual environment for the time being. However, for the purpose of GST, data will be captured and uploaded through an off-line utility (ICAN-lite) provided by DG(Systems).

3. Vide circular 36/2016 – Customs dated 29th July 2016, the Board had in pursuance to para 9.17A of the Foreign Trade Policy 2015-20, prescribed a procedure for e-commerce exports under MEIS. Presently, the facility extends to the Foreign Post Offices at Delhi, Mumbai and Chennai. Exports under MEIS through Post will continue to be governed through the aforesaid circular, except that the declaration form appended to thereto shall now be replaced with PBE-I, which has been prescribed under the new Regulations. It is further provided that exports under e-commerce, not involving MEIS, may be done through any notified Foreign Post Office under the following procedure:

4. Any exporter holding a valid Import-Export Code shall be permitted to export goods by filing a Postal Bill of Export (PBE) in the form prescribed under the “Export by Post Regulations 2018”.

4.1 Every PBE-I (for e-commerce exports) shall be filed in duplicate and shall cover only one consignor, though it can be used for any number of consignees. In other words, there will be no limit on the number of postal shipments which can be effected using a single Postal Bill of Export - I. The exporter shall be required to attach the invoice(s) with the PBE. In addition, the exporter shall continue filing of the postal label or declaration as per CN22/CN23 (Forms attached). An important ingredient of the revised CN 22/ CN23 forms is that a column for “sale of goods” has been added.

4.2 The PBE along with goods shall be presented to the Customs at the Foreign Post Office. In case of constraints of space or other logistics issues, the jurisdictional commissioner in consultation with the jurisdictional PMG, may also notify any other designated Post Office for presentation of export goods, through a public notice. The PBE shall be processed manually. Upon completion of processing of the PBE by Customs, the goods shall be presented to the Postal department, who will acknowledge receipt of the shipment on the PBE and affix the tracking number of each shipment on the same. Upon affixation of the tracking number by postal authorities, the PBE shall be brought back to the Proper Officer for grant of “Let Export Order”. The original PBE will be retained by Customs and the duplicate PBE will be handed over to the exporter or his customs broker.

4.3 In the case of exports, not involving e-commerce, the PBE-II shall be filed in duplicate and shall cover one consignor, though it can be used for any number of consignees. In other words, there will be no limit on the number of postal shipments which can be effected using a single Postal Bill of Export – II¹. The procedure as above will be followed.

4.4 Commissionerates are advised to make suitable arrangements for noting and processing of PBEs. All extant instructions relating to examination & assessment applicable to shipping bills will continue to apply. Chief Commissioners / Commissioners are requested to evolve guidance for officers for manual risk management.

4.5 The Postal Authorities will furnish the proof of export of the goods i.e. copy of relevant CN / CP forms, as applicable to different categories of postal mails, to the Customs at the FPO. Essentially, the document must contain the tracking nos. of the parcel along with dispatch identifier. A corresponding entry relating to proof of export will be made in noting register. Only after receipt of such proof of export should details in ICAN be uploaded.

5. During the course of deliberations in the Customs & India Post Joint Conference on facilitating exports through e-commerce (held on 11th May 2018), the issue of off-line data entry, increase in exports through post and ensuing shortage of staff was discussed. Ways & means were discussed for providing best possible convenience to exporters w.r.t. logistics requirements of a small parcel environment alongside of following manual customs

¹ As amended vide circular 18/2018 –customs dated 13th June 2018

procedures. After due consideration of the deliberations, the Board has permitted Customs Brokers (CBs) to operate at all FPOs for the ease of operations of exporters. It is also decided that in order to ensure transparency and visibility, CBs/Exporters (filing PBE on their own) will be required to onboard any third-party web application before commencing operations at the FPO.

5.1 The web-application shall have the following functionalities:

- (a) The IEC holders and Customs brokers using FPOs for exports should be registered on the application with KYC documents;
- (b) The e-commerce exporter would input data required in the PBE (with multiple consignees) on the web-application;
- (c) The application shall provide the facility of printing the Postal Bill of Export (PBE-1) from the web application, and the Customs Broker/ exporter shall file the same at the FPO as per manual procedure;
- (d) The web-application shall also provide the facility of uploading postal tracking numbers by the Customs Brokers/ Exporters;
- (e) The application should provide dashboards to the exporters and customs brokers w.r.t to their shipments;
- (f) Customs at the FPO shall have log in facility to view data with respect to a FPO or a Customs Broker or any exporter for the purpose of data analysis and profiling for risk management; and
- (g) The application will provide the facility to customs officer to verify the data and download into a locally installed PC;

5.2 It is clarified that Customs will not be onboarding the web application for conducting any regulatory process. All customs procedures will remain in manual mode, till introduction of EDI at FPOs. The application will be essentially used between the exporter and customs broker to facilitate communication, enable shipment visibility and printing of PBE or any such other value-added services for B2B use.

6. In the case of natural persons (i.e. other than firms & companies) exporting parcels, there is no change in procedure being followed hitherto. It is clarified that they will not be required to file any PBE.

6.1 In the case of export of jewellery as provided under para 4.48 of the FTP (2015-20), as amended upto 5.12.2017, extant procedures shall continue to be followed.

7. In the budget of 2017, chapter heading 9804 was amended to cover all types of **personal imports**, whether by post, courier, air or sea. Note 4 to chapter 98 was also amended to exclude from heading 9804, motor vehicles, alcoholic beverages and tobacco products.

8. Also, the Foreign Trade Amendment Order, 2017 dated 25.07.2017 has amended clause 3(1) (i) of the Foreign Trade (Exemption from application of rules in certain cases) Order, 1993, and now reads as under:

3. Exemption from the application of rules. -

- (1) Nothing contained in the Rules shall apply to the import of any goods,
(i) by any person through the post or otherwise for his personal use subject to compliance of other Laws/Rules/Orders/Regulations in force.

9. By issue of notification 16/2015-20 dated 12th July 2017, DGFT has removed the value cap of Rs 2000.00 w.r.t to personal imports, as well as, fully aligned the chapter notes in ITCHS with those enacted under Chapter 98 of the Customs Tariff. Personal imports would be considered as “free”, except those items which are appearing in the list of “restricted” items or “prohibited” items or where they are regulated by any other law for the time being in force, subject to a de-minimus clause or a clause for personal imports provided in such law. (As regards definitions of the words “restricted” and “prohibited”, chapter 9 of the Foreign Trade Policy 2015-20 may be referred)

9.1 The net effect of all the above changes is that any personal import, whether by courier or post or by Air or Sea shall be classified under tariff heading 9804 of the Customs Tariff.

9.2 In this connection, clarification has been sought as to what constitutes personal import? Customs Act, 1962 does not define personal import. However, the Handbook of Procedures carries a definition of personal imports in para 2.07 (a) (iii), which is as follows:

Persons importing or exporting goods for personal use not connected with trade or manufacture or agriculture.

9.3 Further, where an IEC code becomes necessary, such as for filing a Bill of Entry, the HBoP provides for using a default code (0100000053) for:

Persons / Institutions / Hospitals importing or exporting goods for personal use, not connected with trade or manufacture or Agriculture.

9.4 Accordingly, field formations are advised to rely upon the above definitions for the purposes of determining whether an import falls within the chapter heading 9804.

10. In so far as imports by post are concerned, it is recognized that Posts is a unique eco-system of clearance in comparison with other modes of clearance of imported goods. Unlike other eco-systems, imports by post are both trackable as well as non-trackable. Manifests, as available in other eco-systems, containing details of consignor/consignee, their addresses and value/description of goods are not being captured or exchanged universally between postal authorities. Data exchange between postal authorities, globally, is at very nascent stages / pilot stages. India Post is still in the process of joining data exchange systems, such as UPU-WCO's SECUREX and other systems which are being worked out bi-laterally with some other countries. In other words, the basic pre-requisite of release of goods, namely, filing of declaration and deposit of duty, cannot be provided with any consistence in the current postal environment.

11. Keeping the above in view, chapter XI of the Customs Act was amended by deleting section 82, while section 84 was amended to provide for issue of regulations to provide a form and manner for making entry in respect of imports and exports by post. However, compliance to a system for filing of declaration for personal imports requires a robust electronic communication system between an importer and Customs/Post. Such a system requires added functionalities in postal tracking system, which are still underway, and therefore the traditional system of relying upon CN 22 and CN 23 will continue for the time being. It may be noted that under notification 50/2017 – Cus dated 1.7.2017 (Sl. No. 608A) **bonafide** gifts up to a CIF value of Rs 5000=00 (Rs. Five Thousand only) intended for personal use have been exempted from duty.


12. In view of the amendments carried out to heading 9804, it follows by principle of exclusion, that imports by a legal person (firms, companies, other forms of business entities) or which are for trade, manufacture or agriculture, cannot be regarded as personal imports and shall not fall within CTH 9804. Such imports by post shall be classified as per Customs Tariff and shall require an IEC, except as provided under para 2.07 of the HBoP 2015-20.

13. Since any import other than personal would be in furtherance of business, there is a requirement of filing a declaration, payment of customs duties & IGST, which is to be available as credit to the importer. Also, compliance of foreign exchange remittance for imported goods requires a customs declaration. All these requirements necessitate filing of a bill of entry, which is not possible in the postal clearance eco-system. Accordingly, imports by legal persons or imports **connected with trade or manufacture or agriculture** would require that the importer file a bill of entry on EDI at the nearest customs station, as may be decided by the Chief Commissioner having jurisdiction over the FPO, However in locations where filing of the bill of entry on EDI is not found feasible, the Chief Commissioner may allow manual filing of Bill of entry along with payment of duty at the FPO, till such time feasibility of filing on EDI is established. The details of all such Bills of Entry filed manually will be uploaded in the ICAN facility subsequently. It may also be noted that import of commercial samples under notification 154/94-Cus dated 13.7.1994, as amended, warrants filing a Bill of Entry as it is limited to IEC holders and subject to various other conditions including value limits.

14. In order to provide time for the trade to adopt new procedures and Commissionerates to put in place commensurate administrative arrangements, the new Regulations come into effect from 21st June 2018.

15. Difficulties, if any, should be brought to the notice of the Board

16. Hindi version follows.


25/7/18
(Tamsunaro Jamir)
Joint Commissioner (ICD)